

**Business Enterprise Program Council for Minorities,
Females, and Persons with Disabilities Meeting**

MEETING MINUTES

**Monthly Council Meeting
Location: Video Conference Room 2-025
James R. Thompson Center
100 W. Randolph Street, Chicago, Illinois**

Monday, July 26, 2010 1:00 p.m.

COUNCIL MEMBERS IN ATTENDANCE

Beth Doria
Curtis Thompson
Patrick Blair, via video conference
Larry Ivory, via video conference
Lourdes Coss
Florence Cox
Raymond Arias
Michael Gonzalez
Alesia Hawkins
Phillip Barreda
Jesse Martinez
Hedy Ratner

COUNCIL MEMBERS NOT IN ATTENDANCE

Lynne Turner
Letitia Herrera
Lawrence Parrish

COUNCIL CHAIRMAN

James P. Sledge, CMS/ Director

ACTING COUNCIL SECRETARY

Elias Ricks Ngwayah II, CMS/BEP

CMS STAFF IN ATTENDANCE

Philina King, CMS/BEP Legal Counsel
Nadine Lacombe, CMS General Counsel
Jerome Cephas, CMS Procurement Counsel
Ellen Daley, CMS Legal
Agueda Corona, Disparity Study Manager
Susan Hartman, CMS/BOSSAP
Jacob Stuckey, Special Asst. to Dir. James Sledge
Yvette Riley, CMS/BEP
Gladys Rodriguez, CMS/BEP
Rachel Y. Barksdale Little, CMS/BEP
Leslie Taylor, CMS/BEP
Carlos Gutierrez, CMS/BEP

OTHERS IN ATTENDANCE

Stephanie Stephens, Diversity Manager, Illinois State Toll Highway Authority

Norma Sutton, Chief Purchasing Officer, Illinois Department of Revenue
D. Ware, TWC, Inc

AGENDA

- 1.0 CALL TO ORDER
- 2.0 ROLL CALL
- 3.0 APPROVAL OF THE MINUTES OF THE REGULAR COUNCIL MEETING HELD
ON June 28, 2010
- 4.0 CHAIR'S REPORT
- 5.0 POSTED BUSINESS
 - 5.1 Sole Source Presentation – Jerome Cephas, Procurement Counsel – Central
Management Services
- 6.0 UNFINISHED BUSINESS
 - 6.1 Committee Updates
 - A. Exemption/Compliance Committee
 - B. Bonding Committee
 - C. Professional Services
- 7.0 NEW BUSINESS
- 8.0 ADJOURNMENT

CALLED TO ORDER

James P. Sledge, Director for Illinois Department of Central Management Services, called the Business Enterprise Program Council meeting to order at 1:07 PM.

Elias Ricks Ngwayah II, Acting Business Enterprise Council Secretary, took roll call.

MINUTES OF COUNCIL MEETING OF June 28, 2010

The minutes of the Council meeting held June 28th were motioned for approval by Lourdes Coss and seconded by Phillip Barreda. The remaining members of the Council with no opposition nor abstentions approved the minutes.

2010 COUNCIL MEETINGS

The upcoming BEP Council meetings will be scheduled for the fourth Monday of each month, from 1:00 PM. to 3:00 PM.

The Council meeting calendar for 2010 is as follows:

23rd August 2010 – JRTC, Room 2-025
27th September 2010 – JRTC, Room 2-025
25th October 2010 – JRTC, Room 2-025
22nd November 2010 – JRTC, Room 2-025
27th December 2010 – JRTC, Room 2-025

CHAIR'S REPORT

Chair James Sledge reported on the following items.

Legislation:

- Chair James Sledge let everyone know that Senate Bill 51 implementation is now in effect as of July 1, 2010. There was a trailer bill that followed and was passed at the last legislation session that delayed parts of the SB 51. Chair James Sledge and CMS staff continue to address the challenges of the bill i.e. amendments to the procurement process.
- Chair James Sledge noted he would ask a CMS legal representative to attend next month meeting to discuss SB 51 and the amendment process of the bill.

Noted: The trailer bill (Public Act 96-0795) establishes the applicability for all SB 51 changes as "those procurements for which contractors were first solicited on or after July 1, 2010." (Section 1-11).

POSTED BUSINESS

Chair James Sledge called for presentations.

Presentation by Jerome Cephas:

Jerome Cephas presented a power point presentation on sole source procurement. He provided a detail overview of the law, three bases for sole sources, sole source approval process and hearing procedure. Both CMS and Council members interchanged ideas and recommended changes to the lengthy process. After his presentation, Mr. Cephas addressed Council member's questions.

Overview of sole source procurements and hearing procedure are as follows:

Three (3) Bases for Sole Sources:

1. Only vendor
2. Only economically feasible vendor
3. Some changes to existing contract

Definitions:

- Sole Source – there are no other sources that can meet the need
- Sole Economically Feasible Source – there may be other sources, but using them is not economically feasible.

The Law – Sole Source Procurements, 30 ILCS 500/20-25

- Hearing Provisions
 - Public hearing requirement
 - CPO and purchasing agency present written justification
 - Policy Procurement Board (PPB) and public may present testimony
 - Publish notice of intent
 - Minimal posting duration of 14 days before hearing
 - Policy Procurement Board (PPB) justification form
 - Post hearing posting
- Limit on Professional and Artistic Services (P & A)
 - No P & A amendment (1) Increase contract amount by 5% of initial award or (2) extension time beyond time needed for competitive procurement and no longer than 2 months.

The Law – Emergency Procurements, 30 ILCS 500/20-30

- Emergency Procurement
 - Limit duration time necessary for competitive procurement
 - Not to exceed 90 days
 - Notice of emergency to Policy Procurement Board and published no later than 3 business days after award
- Emergency Extensions
 - CPO finds added time is necessary
 - Scope and duration limited to emergency
 - Hearing before execution of extension
 - CPO provides written justification
 - Public may testify
 - Notice of intent to extend to PPB and published at least 14 days before hearing
 - Post hearing posting
- Affidavit filed with Policy Procurement Board and Auditor General within 10 days after procurement

Hearing Procedure, Step 1:

- Parties involved
 - Presiding Officer
 - Public
 - Policy Procurement Board (PPB)
 - Purchasing Agency/SPO
 - CPO

Hearing Procedure, Step 2:

- Public Comments/Testimony
- Recommendation
- CPO determination
- Professional Business Case (PBC) Approved
- Office of Management Budget (OMB) Approves
- Notice Prepared
- CMS Legal Review
- Notice Posted
- Hearing
- Recommendation
- Determination
- Notice Posted

Jerome Cephas opens the floor to questions and feedback from the Council

Members Hedy Ratner, Beth Doria, Lourdes Coss, Phillip Barreda and Larry Ivory raised questions and concerns about the sole source process and Jerome Cephas and other CMS responded to the inquiries.

Noted: That Jerome Cephas explained that the sole source process begins at the PBC level and that the user agency issuing the RFP initiates the PBC.

Proposed System Changes

Phillip Barreda and Hedy Ratner recommend the following system changes:

- State remedy system to route sole source and professional and artistic service contracts to Council to ensure minority and women owned firms subcontracting participation.

UNFINISHED BUSINESS

Chair James Sledge called for committee updates.

A. Exemption/Compliance Committee

Raymond Arias reported on the exemption/compliance committee. Mr. Arias indicated that he would like to schedule a committee meeting to discuss the procurement process.

B. Bonding Committee - No Report

C. Professional Services Committee

Hedy Ratner reported on the professional services committee. Ms. Ratner distributed handouts to Council members and allowed questions and feedback. The handout indicated eleven (11) preliminary recommendations for professional and artistic service contracts.

Recommendations are as follows:

- State agencies subject to BEP goals to incorporate BEP goals into professional and artistic contracts and made available online and to BEP stakeholders.
- Design a transparent and open bidding process for professional services including RFQs. Clarify professional service vendor selection process.
- Publicly report tracked M/WBE professional service and other contract participation according to ethnicity and gender.
- Institute a procurement scorecard that gives preference to vendors who balance tier contracting by including M/WBEs in private sector contracts and state contracts.
- Develop procedures around “emergency” procurement so that all contracts go through procurement process including professional services. Few if any are sole source contracts.
- Create incentives for minority and women owned firms to partner with other minority and women owned firms to promote minority and women owned professional service firms as prime contractors.
- Continue to streamline the current certification process. Outsource M/WBE certification.
- Expand small business initiatives to include professional service contracts.
- Plan outreach meetings with all state agencies on professional service opportunities with prime contractors as well as agency representatives.
- Process to recruit, identify and prequalify those prospective and contracting professional and artistic service businesses that are and can be pre-qualified.
- Unbundle professional and artistic service contracts.

Discussion on Small Business Set-Aside Initiatives by Susan Hartman, Hedy Ratner, Larry Ivory and Chair James Sledge:

- Susan Hartman/CMS BOSSAP advised the Council on procurement requirements for small set-aside program. She indicated that procurements under \$50,000 are subject to the small set-aside designation unless state agencies receive a waiver from the SPO. She noted that Illinois Department of Transportation (IDOT) is part of the state’s small set-aside program.
- Member Larry Ivory and Member Hedy Ratner reported on IDOT’s Small Business Initiative Program guidelines and minority subcontracting opportunities vs. State of Illinois Small Business Set-Aside Program procurement categories

- Chair James Sledge he would look into IDOT's small business program guidelines.

NEW BUSINESS

Discussion on procurement

Chair James Sledge reported on Illinois Gaming Board (IGB) procurement issue. Chair James Sledge indicated he received correspondences regarding the Illinois Gaming Board procurement and since the procurement is open and specific information will not be discussed.

Solicitation Overview:

The Illinois Gaming Board (Agency, State Agency or Buyer) RFP solicitation is seeking the assistance of a vendor to provide a centralized communication system in which to connect video gaming terminals, site controllers and other related technological components utilized in the video gaming industry.

Discussion on upcoming RFP solicitations and IGB procurement issue by Member Larry Ivory:

Member Larry Ivory explained that he and members of the council would like to engage early on in the RFP process to ensure that there is adequate minority participation in large contracts. Mr. Ivory said he and other members were not clear on CMS procurement process and asked Chair James Sledge to advise the Council on this topic.

Member Larry Ivory explained that with large contracts such as the \$89 million with IGB, the BEP Council wants to ensure that the procurement process is clear and transparent.

Member Larry Ivory yields floor to Chair James Sledge.

Chair James Sledge answered general questions relating to the Illinois Gaming Board procurement and CMS procurement process. All vendors submitted bids with appropriate BEP goals and utilization plan indicated that they would be able to meet those goals.

Chair James Sledge noted without going into any specifics about the procurement that his role, along with CMS, is to ensure that the contract is legally binding and the procurement is clean and transparent.

Key points of discussion and conclusions are as follows:

- IGB issued the solicitation.
- IGB will resolve any areas/ issues that occur with the contract.
- Chair James Sledge noted that the IGB contract will be closely monitored by CMS because of the purchase size.

Overview of contract bid procedure by Chair James Sledge:

- Chair James Sledge provided an overview of the contract bid procedure.
- Explained his role and responsibility as CMS CPO.
- Explained RFP's issued by user agency and user agency responsibility to select committee to review the bids and make an award.
- Explained CMS role to play in approval or denial of a protest

Chair James Sledge yields floor to Council members'.

- Member Florence Cox, other members discussed their viewpoints on contract bids. These are:
 - Members' advisory role in the procurement process
 - Contract bid rules and regulations
 - Understand how state's procurement process works
- Chair James Sledge offered and encouraged BEP Council members to utilize CMS services re: legal and procurement issues

RFPs, contracts, utilization plans with BEP goals

- Philina King and Nadine Lacombe gave an overview on contracts and BEP goals.
 - Explained that utilization plans are part of the vendors bid package. They are incorporated into the RFP and become part of the contract.
 - Explained utilization plans are not scored but rather a goal commitment for vendors.
 - Noted that the law does not prohibit a user agency or CMS from awarding a contract if a vendor utilization plan is found to be insufficient.
- Member Jesse Martinez explained that his agency, CDB will award contract, as well as approves good faith efforts based on contractors' good faith documentation.
 - Explained difference in quota vs. goal attainment, noting if the contractor satisfied the requirements of the program, CDB awards the contract.
 - Explained there is no requirement by law that says an agency can take away a contract if vendor does not meet the utilization plan goal.

IT procurements:

- Member Raymond Arias reported on TSP/IBM project. The contract provides technical resources to state agencies. Mr. Arias explained the recent ruling and process agencies must follow. He noted that the ruling allows larger national companies to buy business from small Illinois base companies. He is concerned that the ruling will work against the BEP process. Philina King noted she spoke with Mr. Arias and asked him to forward TSP/IBM project information to her for next month meeting.

Members' recommendations and comments:

- Member Larry Ivory and Beth Doria encouraged members to contact the Governor's Office to voice concerns re: increase headcount at CMS/BEP. Ms. Doria noted she had a conversation with the Governor's Office and asked other members to do the same.
- Expand small business set-aside procurement categories to include professional service contracts.
- Include minority and women owned firms BEP participation in emergency procurements.
- State remedy system to route sole source and professional and artistic service contracts to Council to ensure minority and women owned firms subcontracting participation.

Next Steps

- Next meeting is scheduled for Monday, August 23, 2010, James R Thompson Center, 100 W Randolph Street, Room 2-025, 1:00 PM to 3:00 PM.
- CMS representative to attend next meeting to discuss Senate Bill 51 and the trailer bill i.e. amendments to procurement process.
- Philina King to advise members on TSP/IBM contract at the next meeting.
- Lead Chairman, Beth Doria announced that there will be a Policy/Enforcement committee meeting scheduled for August 5, 2010, 2:00 PM.
- Member Larry Ivory commended CMS/BEP staff on a job well done in light of shortage of staff.

Meeting Adjourned at 2:32 PM